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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Reorganization and Revision)
of Parts 1, 2, 21, and 94)
of the Rules to Establish a)
New Part 101 Governing)
Terrestrial Microwave Fixed)
Radio Services)

WT Docket No. 94-148

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To: The Commission

REPLY COMMENTS OF UTC

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TABLE OF CONTENTS

Summary	i
Reply Comments	1
I. UTC's Position Was Supported by Most of the Other Commenters	2
II. Automatic Transmitter Power Control (ATCP) Should Be Authorized in the Rules and Coordinated Pursuant to Accepted Industry Standards	3
III. Analog Loading Standards Should Be Relaxed	4
IV. "Blanket STAs" Should Be Available to POFS Applicants As Well As CC Applicants	5
V. Transition Rules Should Be Adopted	7
VI. Application Forms Should Be Consolidated Subject to Further Public Input	8
VII. Substantive Changes Relating to Multiple Address Systems Are Beyond the Scope of This Proceeding ...	9
VIII. Transition Procedures for the "Emerging Technology" Bands Are Beyond the Scope of This Proceeding	10
IX. Conclusion	11

SUMMARY

In its Reply Comments, UTC notes that most of the commenters in this proceeding echoed the points made by UTC in its Comments. Further, UTC urges that:

- o Automatic Transmitter Power Control (ATPC) be authorized in the rules and coordinated pursuant to accepted industry standards;
- o Analog loading standards be relaxed; and
- o "Blanket STAs" be available to applicants in the Private Operational Fixed Service (POFS) as well as to applicants in the Common Carrier Point-to-Point Microwave Service (CC).

UTC also supports the establishment of transition or grandfathering rules for systems previously licensed or applied for prior to the effective date of the new Part 101 rules. UTC renews its request for the adoption of a unified CC and POFS application form and recommends that the Commission invite input from the private sector on the creation of a consolidated application form.

Finally, UTC notes that the substantive changes relating to multiple address systems and the transition procedures for the "Emerging Technology" bands are beyond the scope of this proceeding and should not be considered by the Commission.

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To: The Commission

REPLY COMMENTS OF UTC

Pursuant to Section 1.415 of the Commission's Rules, UTC^{1/} hereby submits its Reply to certain of the comments filed in response to the Notice of Proposed Rulemaking, FCC 94-314, released December 28, 1994, in the above-captioned matter.^{2/} As explained herein, there is overwhelming consensus on most of the significant issues relating to the proposed consolidation of the rules for the Private Operational Fixed Service (POFS) and the Common Carrier Point-to-Point Microwave Service (CC).

UTC commends the Commission for taking the initiative to propose a consolidation of the fixed microwave rules.

^{1/} UTC, The Telecommunications Association, was formerly known as the Utilities Telecommunications Council.

^{2/} By Order, DA 95-140, released February 2, 1995, the date for filing Reply Comments was extended to March 17, 1995.

It is evident from the various comments in this proceeding that users and manufacturers of microwave facilities welcome the many changes proposed by the Commission to streamline the microwave service rules and to facilitate the licensing and operation of these important communications systems. Moreover, the Commission's proposal has stimulated discussion on additional ways in which the microwave rules can be improved. With few exceptions, there is little disagreement within the industry as to these rule changes.

I. UTC's Position Was Supported By Most of the Other Commenters

In its Comments, UTC supported the following points, most of which were echoed by other parties to this proceeding:

- o The rules can and should further consolidated; for example, eliminate redundancies in the POFS and CC technical rules in Subparts H and I.
- o Application procedures for POFS and CC applicants should be made consistent, both in terms of the forms used and the processing criteria employed.
- o Prior frequency coordination should be required in all microwave bands, including the point-to-multipoint bands such as those used in multiple address systems.
- o Construction periods for both POFS and CC stations should be 18 months.
- o POFS and CC licensees should be permitted to make minor modifications at an early date.

- o Permissible use of POFS and CC facilities should be liberalized; for example, by allowing POFS licensees to lease capacity to common carriers.
- o Part 94 license posting requirements should be retained.
- o "Commencing operation" should be defined for both POFS and CC licensees with respect to the transmission of operational signals, not merely test signals.
- o Automatic Transmitter Power Control (ATPC) should be specifically authorized in the rules.

Because of the significant consensus among the commenters on most of these issues, UTC will limit its Reply to a few issues on which there appears to be a difference of opinion among the commenters.

II. Automatic Transmitter Power Control (ATPC) Should Be Authorized in the Rules and Coordinated Pursuant to Accepted Industry Standards

In its Comments, UTC supported the specific authorization of automatic transmitter power control (ATPC) in the rules to clarify for applicants how ATPC is to be coordinated and used. UTC also suggested that systems should be coordinated and licensed with the higher power. In discussions with other parties, UTC understands that its comments might be construed in such a way as to effectively defeat the reason for using ATPC. By way of clarification, UTC endorses the authorization of ATPC, but recommends that the license, and more importantly the coordination data exchanged between parties, clearly

indicate the maximum and nominal transmitter power levels of a system employing ATPC. UTC understands that TIA Bulletin 10 requires an exchange of this data during the coordination process. UTC therefore supports the TIA/NSMA position on use of ATPC.^{3/}

III. Analog Loading Standards Should Be Relaxed

In its Comments, the American Petroleum Institute (API) correctly notes that the proposed Section 101.141(a)(3) would require analog microwave systems to be loaded to 50% payload capacity within 30 months for one DS-3 and above on channel bandwidths of 10 MHz or greater.^{4/} API notes that analog channel loading standards must remain flexible for POFS systems due to the unique system configurations and growth patterns.

UTC agrees with API's assessment and urges modification of the proposed analog loading standards. In UTC's discussions with API as well as TIA/NSMA, it has been recommended that analog channel loading standards for systems with bandwidths of 10 MHz or greater be set at 25%.

^{3/} Fixed Point-to-Point Communications Section, Network Equipment Division of the Telecommunications Industry Association and the National Spectrum Managers Association, Inc. (TIA/NSMA), pp. 37-39.

^{4/} API, pp. 14-16.

UTC concurs with this recommendation and urges modification of Section 101.141(a)(3) accordingly.

IV. "Blanket STAs" Should Be Available to POFS Applicants As Well As CC Applicants

Several parties note the current policies of the Wireless Telecommunications Bureau on the granting of "blanket special temporary authorizations" (BSTAs) for CC microwave facilities that (1) have been successfully frequency coordinated, (2) meet any tower clearance requirements, (3) do not have an adverse environmental impact, and (4) do not affect operations in neighboring countries or in any radio "quiet zones."^{5/} These commenters note the beneficial purposes that would be served by early initiation of service without the need to request and justify individual STA requests. In substantially similar comments, Entergy, CSWS, MWDSC, and Southern recommend that the Commission issue a Public Notice that would allow POFS applicants to benefit from the same BSTA policy as is currently available to CC applicants. SBC and BellSouth recommend that the BSTA policy be specifically codified in Part 101.

^{5/} Central and South West Services (CSWS), pp. 7-8; Entergy, p.10; Metropolitan Water District of Southern California (MWDSC), pp. 11-12; The Southern Company (Southern), p. 13; Omaha Public Power District (OPPD), p. 1; SBC Communications (SBC), p. 5; and BellSouth, pp.3-4.

UTC agrees with the utility commenters that BSTAs should be routinely available to POFS applicants on the same terms and conditions as CC applicants. The need for such blanket authority will be particularly acute due to the impending relocation of potentially thousands of POFS systems from the 1850-1990 MHz band by personal communications service (PCS) licensees. Because PCS licensees will undoubtedly want to relocate microwave systems as promptly as possible in order to commence revenue service, the FCC is likely to receive a large number of microwave modification applications and requests for STA within a relatively short timeframe. Availability of a BSTA procedure would minimize the burden on microwave applicants (and indirectly on PCS licensees), as well as the FCC staff.

UTC therefore supports extension of the BSTA policies to POFS applicants as well as CC applicants, and joins SBC and BellSouth in recommending that these procedures be codified in Part 101. Since these procedures are already used by the staff, and because the stated purpose of the present rulemaking proceeding is to make the microwave rules easier to use and understand, it would be appropriate

and within the scope of this proceeding to codify the BSTA policy in the rules.^{6/}

V. Transition Rules Should Be Adopted

Several commenters noted the need for transition or grandfathering rules for previously licensed or applied for systems.^{1/} TIA/NSMA point out that there will be significant differences between certain of the Part 101 technical requirements relating to frequency coordination, loading standards, and antenna requirements that could adversely impact existing users. TIA/NSMA therefore recommend indefinite grandfathering of all systems that are licensed and all applications (including expansions and modifications) that are pending on the effective date of

^{6/} UTC notes the pendency of CC Docket No. 93-2, 8 FCC Rcd 1112 (1993) in which the FCC has proposed to allow CC applicants to begin construction and operation so long as certain conditions are met. In the NPRM in the current docket, the FCC indicated that it is not "duplicating" in this proceeding the proposals in CC Docket No. 93-2 since it expects to complete that proceeding soon. UTC would simply note that CC Docket No. 93-2 does not encompass the needs of POFS users, and that the docket includes consideration of one important issue that is not relevant to POFS applicants; i.e., whether CC applicants should be allowed to construct prior to authorization. POFS applicants are already permitted to construct facilities prior to license grant. Thus, even if the FCC decides to defer consideration of these issues as they affect CC applicants, there is no reason for the FCC not to adopt a BSTA policy for POFS applicants in the context of the present docket.

^{1/} Association of American Railroads (AAR), p. 7; API, p. 13; TIA/NSMA, pp. 32-33.

the new rules. UTC agrees with these commenters concerning the need for a transition mechanism, and recommends adoption of the TIA/NSMA proposal on grandfathering.

VI. Application Forms Should Be Consolidated Subject to Further Public Input

In its Comments, UTC supported the adoption of unified application forms for POFS and CC applicants. The comments indicate a strong consensus with this position, although there is a minor difference of opinion as to whether the consolidated form should be based on the current POFS application (Form 402)^{2/} or the CC application (Form 494).

UTC renews its request for adoption of a unified application form. Although UTC agrees with The Southern Company's assessment that the Form 402 filing procedures are more streamlined, it concurs with the other commenters that Form 402 currently fails to capture some important technical data that is necessary for the maintenance of frequency coordination databases.^{2/} UTC therefore recommends that the Commission invite input from the private sector on the creation of a consolidated

^{2/} For example, Southern recommends continued use of Form 402.

^{2/} For example, antenna and transmitter characteristics.

application form that will meet the similar, but distinct, needs of CC and POFS applicants, frequency coordinators, and the Commission. This approach is also supported by other commenters in this proceeding.^{10/}

VII. Substantive Changes Relating to Multiple Address Systems Are Beyond the Scope of This Proceeding

AAR notes that the definition of "Multiple Address System" (MAS) in proposed Section 101.3 requires each MAS master station to serve "at least its own four remotes operating on its assigned frequency." AAR recommends that the minimum number of remotes be reduced to two in order to accommodate situations in which topography or routing of railroad right-of-way prohibits the siting of four remotes.

AAR's request for this substantive change in MAS licensing is beyond the scope of this proceeding, and should not be adopted in any event. As AAR acknowledges in its Comments, railroads (or any other applicant) needing fixed radio service between as few as two or three points can secure licensing on point-to-point frequencies. Relatively few MAS channels have been allocated, and they are not available for assignment in many areas of the country. Further, because of the way MAS channels are

^{10/} Comsearch, p. 7; GTE, p. 13; SBC, p. 4; and TIA/NSMA, p. 12.

coordinated (90-mile master-to-master separation) routine assignment of MAS channels to serve only two or three remotes would be an extremely inefficient use of this spectrum. The current MAS rules, including minimum service requirements, were considered thoroughly in PR Docket No. 87-5 and are not appropriate for review in this proceeding.^{11/}

VIII. Transition Procedures for the "Emerging Technology" Bands Are Beyond the Scope of This Proceeding

SBC Communications requests clarification of proposed Section 101.69 on the relocation of existing 2 GHz licensees by "emerging technology" licensees. SBC expresses the opinion that the rules are vague in terms of timing, the costs for which emerging technology licensees must provide reimbursement, and the procedures for dispute resolution.^{12/} SBC's comments on these issues are misplaced and outside the scope of the present proceeding.

As SBC should be well aware, the transition rules for the "emerging technologies" bands were adopted through a

^{11/} Report and Order in PR Docket No. 87-5, 3 FCC Rcd 1564 (1988), Memorandum Opinion and Order, 4 FCC Rcd 2491 (1989). AAR's request for substantive changes in the MAS licensing and operational rules is in contrast to UTC's limited procedural request, supported by API, that prior coordination notices should be given when coordinating MAS channels.

^{12/} SBC. pp. 7-8.

series of decisions in ET Docket No. 92-9.^{13/} SBC had every opportunity to request clarification of these issues in Docket No. 92-9.^{14/} The current docket proposes no substantive changes to the "emerging technology" transition rules, and SBC's request for clarification or amendment of these rules must be dismissed from this proceeding.^{15/}

IX. Conclusion

UTC supports the Commission's efforts to consolidate and streamline the common carrier and private microwave service rules. The comments in this docket express overwhelming support for this rule consolidation, and reveal a strong consensus for further consolidations and refinements. Most of these suggestions will inure to the benefit of microwave user community as well as the Commission staff by streamlining the licensing process. UTC therefore urges the Commission to carefully review and

^{13/} First Report and Order and Third Notice of Proposed Rule Making in ET Docket No. 92-9, 7 FCC Rcd 6886 (1992); Third Report and Order and Memorandum Opinion and Order, 8 FCC Rcd 6589 (1993); Memorandum Opinion and Order, 9 FCC Rcd 1943 (1994); and Second Memorandum Opinion and Order, FCC 94-303 (released December 2, 1994) (appeal pending).

^{14/} Southwestern Bell Corporation filed comments in PR Docket No. 92-9.

^{15/} As a substantive matter, SBC's concerns (e.g., use of alternative dispute resolution procedures) have been largely addressed in the FCC's various decisions in Docket No. 92-9.

- 12 -

act favorably on the many points on which the private sector has been able to reach agreement.

WHEREFORE, THE PREMISES CONSIDERED, UTC respectfully requests the Commission to take action in this docket consistent with the views expressed herein.

Respectfully submitted,
UTC

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